

1954

Aug. 18

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CONCORD, N.H.

Mr. John Hony,  
Abandoned Roads Committee,  
c/o Forestry and Recreation Commission  
State House Annex  
Concord, New Hampshire

Dear Sir:

Your inquiry of August 7, 1954, involving nine questions addressed to General Wyman, is answered as follows:

All references to Part and section herein are to Revised Laws, chapter 90, as inserted by Laws of 1945, chapter 183, and subsequent amendments.

1. Whether roads built by the C.C.C. as public ways but not formally accepted are public highways depends upon whether they meet the definition of Part 1, section 1, and Part 1, section 4, subsection III.

2. Examination of authorities indicates that it was contemplated by the Legislature that dwelling as used in the statute contemplated a building suitable for and occupied by a person or persons as a dwelling.

3. (a) Yes. Part 9, section 1, which provides that "Any Class IV, V or VI highway, or any portion thereof, in a town, may be discontinued by vote of a town", subject to the further conditions of said Part 9. (b) Yes. Part 9, section 1, which provides that "Any Class IV, V or VI highway, or any portion thereof, in a town, may be discontinued by vote of a town", subject to the further conditions of said Part 9.

4. Rights of abutters or persons owning land reached by said highway are covered by said Part 9, sections 4 and 5.

5. Town B, by said Part 9, c. 4, has the right to appeal from action of Town A in closing a Class VI road.

Mr. John Hoar.  
Abandoned Roads Committee

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6. There is no precise definition of "summer cottage" as mentioned in Part 16, section 23. Taking the Standard Webster Dictionary definition -- as the Courts would do -- for "summer house," it means a "country house for residence in the summer."

7. No. Part 9, section 6, does not require the erection of a sign, and vote of a town properly taken terminates a town's liability.

8. Travel means by all customary modes of transportation, including foot, automobile, bicycle, truck or carriage. Travel has no express limitation as to the mode of conveyance.

9. (a) Towns are liable to all persons using highways for failure to maintain and repair them. Part 18, sections 17 through 33.  
(b) A town's liability upon discontinuance is only to persons aggrieved by the discontinuance, which would only include persons denied or restricted as to access to their own premises thereby.

I trust you will find the above helpful.

Very truly yours,

George F. Nelson  
Assistant Attorney General

GFM:HP